IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 681 OF 1990

1. Smt.Zuberdakhatun J.Khalik Amir.
since deceased through HLRs.
A) Khalil Amir
R/o. 195, Mutton Street,
Mumbai 400 003.
B) Amir Khalil Sayyad,
R/o.261, Noor Mohd.Manzil,
Room No.10, 11, 12, 1st floor,
M.A.Road, Mumbai 400 008.
C) Zarina Asif Shakh,
R/o.Al-Aba Bldg., 1st floor,
Near Babey Garden, Agripada,
Behind Grindlays Bank,
Mumbai 400 008.
2. Smt.Aminabai J.Haji Abdul Wahab
Bukhari. ... Appellants.

Versus.

The Special Land Acquisition Officer ... Respondent.

Shri D.S.Sawant for the Appellants.

Mrs.G.P.Mulekar, A.G.P. for the Respondent.

WITH

FIRST APPEAL NO. 406 OF 1991

The State of Maharashtra. ... Appellant.

Versus.

1.Smt.Juhedakhatun J.Khalil Amir.
2.Smt.Amibabai J.Haji Abdulwahab. ... Respondents.

Mrs.G.P.Mulekar, A.G.P. for the Appellant.

Shri D.S.Sawant for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 8th January, 2007.

ORAL JUDGMENT.

1. Since these Appeals have been preferred for challenging same judgment and award, the Appeals can be conveniently disposed of by a common judgment. The challenge in these Appeals is to the Judgment and Award dated 30th November 1989 passed by the learned Civil Judge, Senior Division, Raigad at Alibag in Land Acquisition Reference No.63 of 1988. The said reference was made under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act of 1894"). The acquired lands which are subject matter of these Appeals are situated at village Owe, Taluka Panvel, District Raigad. The said lands were notified for acquisition by notification under section4 of the said Act of 1894 to which on 3rd February 1970. The Award under section 11 of the said Act of 1894 was made on 3rd May 1986. By the impugned Judgment and Award, the market value of the land has been fixed at Rs.12/- per sq.meter. The First Appeal No.681 of 1990 is filed by the original Claimants for seeking enhancement in the market value. The First Appeal No.406 of 1991 is filed

by the State Government for reduction in the market value.

2. The learned Advocate appearing for the Claimants placed reliance on the decision of the Division Bench of this Court dated 16th March 2000 in First Appeal No.875 of 1985 (Abdul Aziz Husainmiya Patel v/s. Special Land Acquisition Officer) with other connected First Appeals. By the said Judgment, the Division Bench disposed of a group of 31 Appeals arising out of the References under section 18 of the said Act of 1894. The group of appeals relates to various agricultural lands situated at villages Pendhar, Taloja, Belpada, Khargar, Owe, etc. of Taluka Panvel, District Raigad. He submitted that for the acquired lands at village Owe, the Division Bench fixed the market value at Rs.13/- per sq.meter. He invited my attention to the oral evidence of the Claimants and the evidence of the valuer. He submitted that the lands which are the subject matter of the present Appeals are in fact better located than the lands which were the subject matter of the Appeals before the Division Bench. He, therefore, submitted that the market value of Rs.12/- per sq.meter fixed by the trial Court is on the lower side and in fact the market value of Rs.25/- per sq.meter ought to have been fixed. The learned A.G.P. submitted that for similarly

situated lands, the Division Bench has fixed the market value at the rate of Rs.13/- per sq.meter and has directed a deduction of 10% on account of the development charges. The learned A.G.P., therefore, submitted that the rate awarded by the trial Court will have to be reduced.

3. I have considered the submissions made by the learned Advocates appearing for the parties. The Constituted Attorney of the Claimants shri Khalil Amir deposed on behalf of the Claimants. He stated in examination-in-chief that the lands under reference are adjoining to Taloja Railway Station and bus stop of Taloja Gaothan. The Claimants also examined Shri Jeevan Narayan Kulkarni, a valuer. He deposed before the Court regarding the location of the acquired land.

4. The Division Bench of this Court in the case of Abdul Aziz Huseinmiya Patil (supra) was dealing with a group of appeals relating to the lands situated in village Owe which were notified under section 4 of the said Act of 1894 on 3rd February 1970. The lands subject matter of the group of appeals before the Division Bench and the acquired lands in these appeals were notified for acquisition for the same public purpose of development of satellite city of Navi Mumbai.

The decision of the Division Bench has attained finality. Therefore, the decision of the Division Bench is certainly relevant for deciding the issue of correct market value of the acquired land. In paragraph 10 of the decision, the Division Bench observed that the acquired lands from village Owe were quite away from the Highway, Railway Station and Gaothan as well as industrial estate. The Division Bench fixed the market value of the said land at Rs.13/- per square meter and directed further deduction of 10% on account of development charges. Thus the net market value awarded by the Division Bench was Rs.11.70 per square meter.

5. In case of these Appeals, the acquired lands are situated at a close distance to Taloja Railway Station. Thus the lands subject matter of these appeals appear to be better located than the lands subject matter of the group of appeals decided by the Division Bench. Thus the market value of the acquired lands in these cases will be slightly more than Rs.13/- per square meter. The learned trial Judge has fixed the market value at the rate of Rs.12 per square meter. The learned trial Judge has not made any deduction on account of the development charges. As the market value of the acquired land is slightly more than Rs.13 per square meter, considering the deduction on account of

development charges, the market value of Rs.12/- per square meter awarded by the trial Court appears to be just and proper. There is no dispute as regards the grant of statutory benefits to the Claimants. Hence no case is made out for interference with the impugned judgment and award. Hence the Appeals are dismissed with no order as to costs.

Judge.